

REMARKS

This amendment is responsive to the prior art rejections raised in paragraphs 3 to 12 of the current Office Action. In these paragraphs, the Examiner has rejected claims 1,2,7,8,9,10,13,14,15 and 16 as anticipated by U.S. Patent No. 2,775,967 of Sovinsky. This rejection is hereby traversed, and it is submitted that amended claim 1 along with the dependent claims listed by the Examiner are all fully distinguished from Sovinsky.

For a reference to anticipate a claim, the reference must contain each and every element of the claim. Sovinsky does not have a tented, open chamber facing a wearer's face which has an open lower end to allow escape of body fluids. Any such opening in Sovinsky's mask would render it completely useless for its intended purpose, which is to protect against "harmful airborne bacteria, war gases, aerosols, and radioactive particles" (Sovinsky, column 1, lines 20 to 22). As stated by Sovinsky in column 2, lines 34 to 37, the strip 42 of rubber which surrounds the peripheral edge of the facepiece "constitutes a resilient face mounting which hugs the face of the wearer when the mask is mounted for use, ***thereby sealing the interior of the mask from the atmosphere.***" (emphasis added). The sealing strip 42 can be seen in Figure 1 (dotted line going down side of face and under chin) in Figure 3, and in Figures 4 and 5. Claim 1 of Sovinsky also defines "sealing means sealing the edges of said sheet", while dependent claim 3 further defines a strip of rubber "to prevent leakage between said sheet and the face".

It is therefore clear that the chamber in front of the wearer's face in Sovinsky's mask is completely sealed around the face to prevent any leakage into or out of the chamber. The mask is clearly not open below the mouth to allow escape of body fluids, but is specifically designed to prevent any leakage of body fluids out of the mask or external agents into the mask. If it was not so designed, it would not protect the wearer against gases, airborne bacteria or the like and thus would be totally useless for Sovinsky's purposes.

The purpose of the mask in Sovinsky is completely different from that of the present invention. Sovinsky's mask is intended to protect the wearer against potentially harmful agents such as gases, bacteria, aerosols, and radioactive particles. In contrast,

the mask of the present invention is intended to protect law enforcement personnel against harm from a detainee wearing the mask who may attempt to bite or spit at them. In order to achieve its intended purpose, the mask in Sovinsky must be completely sealed around the face. The reverse is true of the present invention, where the mask covers the front of the face but is open at the bottom so that any body fluids such as vomit are not retained in the mask, which could potentially create a choking hazard with a detainee who may be under the influence of drugs or alcohol.

It is submitted that Sovinsky does not anticipate amended claim 1 since it lacks any chamber in front of the face which has an open lower end to permit escape of body fluids, and reconsideration and reversal of the rejection of this claim is respectfully requested.

Claims 2, 7, 8, 9, 10, 13, 14, 15 and 16 depend from amended claim 1 and are distinguished from Sovinsky for the same reasons as stated above, and additionally since these claims define other elements not present in Sovinsky. Referring to amended claim 2, the panel or facepiece 12 of the mask in Sovinsky is not of breathable fabric which allows air to freely enter the mask. Instead, it has one or more layers of filter paper impregnated with micronized charcoal for absorbing contaminants. As regards claim 10, the Examiner contends that the lower edge of the panel in Sovinsky lies free and unsecured when the mask is worn. This cannot be true when the strip 42, which extends along the lower edge of the panel, "hugs the face of the wearer" when the mask is worn. If it was free and unsecured, the wearer would be completely unprotected against the harmful agents which the mask is intended to protect against.

It is submitted that claims 2, 7, 8, 9, 10, 13, 14, 15 and 16 are also not anticipated by Sovinsky, and reconsideration and reversal of the rejections in paragraphs 4 to 12 of the Office Action is respectfully requested.

In paragraph 13 of the Office Action, the Examiner indicates that claims 3 to 6, 11 and 12 would be allowable if rewritten independently. It is believed that amended claim 1 is allowable for the reasons stated above, and claims 3 to 6 which depend from amended claim 1 should also now be allowable. Claim 11 has been rewritten as an

independent claim incorporating the subject matter of original claim 1, and should also be allowable, along with claim 12 which depends from claim 11. Allowance of claims 3 to 6, 11 and 12 is therefore respectfully requested.

In view of the foregoing amendment and argument, it is submitted that all outstanding claim rejections have been overcome and that claims 1 to 16 should now be allowable in addition to claims 17 to 24 which are allowed in the current Office Action. It is submitted that this application is now in condition in all respects for allowance, and early notice to this effect is earnestly solicited. If there are any outstanding objections or rejections which could be dealt with by means of a telephone interview, the Examiner is encouraged to contact the undersigned representative.

Respectfully submitted,

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